

## **DISCLAIMER PROCEDURE**

The State of Idaho owns the beds and banks of all navigable waters below the ordinary high water mark, assuming the waterways were navigable at the time of statehood. These sovereign lands were acquired by virtue of the Equal Footing Doctrine and are administered by the Idaho Department of Lands (IDL) for the benefit of the public in accordance with the Public Trust Doctrine.

Two methods exist to clear title to property in areas where the navigable waterways have changed:

- 1) Quiet Title action through the courts
- 2) Disclaimer of Interest from the Department of Lands

The procedure for acquiring a disclaimer of interest is as follows:

1. Contact the appropriate IDL Supervisory Area Office to determine if the subject property qualifies for issuance of a disclaimer.
2. If the property does qualify, a completed and signed application for Disclaimer of Interest and a \$300 application fee will be required prior to any extensive consultations or surveys. The exact name(s) and address you wish to appear on the disclaimer should be on the form.
3. The subject property will require a legal land survey. An IDL representative will visit the site with the applicant's land surveyor to establish the Ordinary High Water Mark (OHWM). The applicant may also be present.
4. In cases where the present river has moved onto lands outside the GLO meander line survey, the IDL will require the requesting party to disclaim to the State that portion of the present riverbed lying outside the GLO meander line survey.
5. Since statehood, accretions have resulted from artificial means such as diking, filling, irrigation diversions, dam construction, etc. Due to the uncertainties associated with identifying an OHWM and to avoid extensive research and potential litigation, the IDL will generally use the existing OHWM providing the requesting party will grant a 25-foot public use right of way along and adjacent to the existing ordinary high water line. This serves to protect the public trust values associated with rivers and the disclaimed lands by providing public access.
6. The applicant is responsible for coordinating with adjoining land owners who could have a competing claim to the same property. Quit claim deeds from neighbors may be required.
7. The surveyor will need to prepare a record of survey, and a metes and bounds description, which shows: 1) the areas to be disclaimed from the state to the property owner; 2) the areas to be disclaimed from the property owner to the state; and 3) the 25-foot public use right of way. These documents must show the present

OHWL in relation to the original meander line as surveyed by the federal government land office (GLO) and be tied to the nearest section or quarter corner.

8. When the survey has been completed, submit the following documents to the Department of Lands office:
  - (a) A letter of request for the Disclaimer of Interest. Include the acreage of accretion land requested and the exact name and address you wish to appear on the disclaimer.
  - (b) A full size copy of the record of survey and a copy of the legal descriptions. A digital copy of the record of survey (PDF format) and legal descriptions (MS Word format) will also need to be provided for document preparation.
  - (c) Tax payment history.
  - (d) Proof of ownership of the upland property adjacent to the area to be disclaimed; a copy of the property deed is preferable. The applicant must be the legal owner.
9. After approval by the State Board of Land Commissioners the applicant will be billed the remainder of the processing fee. This fee is the actual cost of the field inspection and preparation of the required documents, minus the application fee, but not less than \$300. The final documents will also be sent to the applicant for signature and return to the IDL within 30 days. After all signatures are obtained, IDL will record all the related instruments.

## IDAHO STATE DEPARTMENT OF LANDS

### **DIRECTOR'S OFFICE**

P.O. Box 83720  
300 N. 6<sup>th</sup> St. Ste. 103  
Boise ID 83720-0050  
Tel No: 334-0200  
FAX No: 334-2339 or 3698  
George B. Bacon, Director

### **PRIEST LAKE AREA OFFICE**

4053 Cavanaugh Bay Rd.  
Coolin ID 83821  
Tel No: 443-2516  
FAX No: 443-2162  
Mick Schanilec, Area Supervisor

### **PEND OREILLE LAKE AREA OFFICE**

2550 Hwy. 2 West  
Sandpoint ID 83864  
Tel No: 263-5104  
FAX No: 263-0724  
Ed Robinson, Area Supervisor

### **KOOTENAI VALLEY AREA OFFICE**

Route 4, P.O. Box 4810  
(South Highway 95)  
Bonners Ferry ID 83805  
Tel No: 267-5577  
FAX No: 267-8301  
Scott Bacon, Area Supervisor

### **MICA AREA OFFICE**

3258 W. Industrial Loop  
Coeur d'Alene ID 83815  
Tel No: 769-1577  
FAX No: 769-1597  
Michael Denney, Area Supervisor

### **ST. JOE AREA OFFICE**

1806 Main Ave.  
St. Maries ID 83861  
Tel No: 254-4551  
FAX No: 475-4867  
Ken Ockfen, Area Supervisor

### **CATALDO AREA OFFICE**

80 Hilltop Overpass Rd.  
Kingston ID 83839  
Tel No: 682-4611  
FAX No: 682-2991  
Bob Burke, Area Supervisor

### **CLEARWATER AREA OFFICE**

10230 Highway 12  
Orofino ID 83544  
Tel No: 476-4587  
FAX No: 476-7175  
Bob McKnight, Area Supervisor

### **PONDEROSA AREA OFFICE**

3130 Highway 3  
Deary ID 83823  
Tel No: 877-1121  
FAX No: 877-1122  
Sam Charles, Area Supervisor

### **MAGGIE CREEK AREA OFFICE**

Rt. 2 Box 190  
913 Third St.  
Kamiah ID 83536  
Tel No: 935-2141  
FAX No: 935-0905  
James Clapperton, Area Supervisor

### **CRAIG MT. AREA OFFICE**

P.O. Box 68  
Craigmont ID 83523  
Tel No: 924-5571  
FAX No: 924-5572  
Jay Sila, Area Supervisor

### **PAYETTE LAKES AREA OFFICE**

555 Deinhard Lane  
McCall ID 83638  
Tel No: 634-7125  
FAX No: 634-5117  
Sheldon Keafer, Area Supervisor

### **SOUTHWEST AREA OFFICE**

8355 W. State St.  
Boise ID 83703  
Tel No: 334-3488  
FAX No: 853-6372  
Steve Douglas, Area Supervisor

### **SOUTHCENTRAL AREA OFFICE**

324 South 417 East, Ste. 2  
U.S. Hwy. 93 Business Park  
Jerome ID 83338  
Tel No: 324-2561  
FAX No: 324-2917  
Tim Duffner, Area Supervisor

### **EASTERN IDAHO AREA OFFICE**

3563 Ririe Highway  
Idaho Falls ID 83401  
Tel No: 525-7167  
FAX No: 525-7178  
Pat Brown, Area Supervisor

*Idaho Department of Lands*  
**Supervisory Areas**

